



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2568

DATE SCANNED 3-7-13

SCANNER NO. 2

SCAN OPERATOR AMP

13092682439



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2012 SEP 28 PM 12: 05

September 28, 2012

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: *fp* Alec Palmer *Am*
Staff Director

FROM: Patricia C. Orrock *PC for PO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *Jodi* Jodi Winship/Sari Pickerall *JP*
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2012 12 Day Pre-Primary
Report (Florida)

Attached is a list of political committees and their treasurers who failed to timely file the 2012 12 Day Pre-Primary Report for the Florida Primary Election in accordance with 2 U.S.C. § 434(a). The 12 Day Pre-Primary Report was due on August 2, 2012 and the Primary Election was held on August 14, 2012.

The committees listed on the attached RTB Circulation Report failed to file the election sensitive report by the required due date. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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9/28/2012 9:57 AM

Federal Election Commission
Reason to Believe Circulation Report
2012 PRE-PRIMARY Election Sensitive 08/02/2012 AUTH (CT, FL, WI, MN)

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2568	C00504688	OTERO FOR CONGRESS	OTERO, EVELIO	TERESA GAFFNEY SUSSMAN	\$164,912	0	8/8/2012	6	\$22,119	\$210

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Reason To Believe Recommendation - 2012)
12 Day Pre-Primary Report (FL):)

OTERO FOR CONGRESS, and GAFFNEY) AF# 2568
SUSSMAN, TERESA as treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on October 02, 2012 the Commission took the following actions on the Reason To Believe Recommendation - 2012 12 Day Pre-Primary Report (FL) as recommended in the Reports Analysis Division's Memorandum dated September 28, 2012, on the following committees:

AF#2568 Decided by a vote of 6-0 to: (1) find reason to believe that OTERO FOR CONGRESS, and GAFFNEY SUSSMAN, TERESA as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

October 3, 2012
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 2012

Teresa Gaffney Sussman, in official capacity as Treasurer
Otero for Congress
1311 N. Westshore Blvd., Suite 101
Tampa, FL 33607

C00504688
AF#: 2568

Dear Ms. Sussman:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period through July 25, 2012, shall be filed no later than August 2, 2012. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on August 8, 2012, six (6) days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On October 2, 2012, the FEC found that there is reason to believe ("RTB") that Otero for Congress and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before August 2, 2012. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$210. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$210 is due within forty (40) days of the finding, or by November 11, 2012, and is based on these factors:

Election Sensitivity of Report: Election Sensitive
Level of Activity: \$22,119
Number of Days Late: 6
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

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NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or November 11, 2012. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Otero for Congress and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

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3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Caroline C. Hunter
Chair

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$210 for the 2012 Pre-Primary Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by November 11, 2012. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Otero for Congress

FEC ID#: C00504688

AF#: 2568

PAYMENT DUE DATE: November 11, 2012

PAYMENT AMOUNT DUE: \$210

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2012 DEC 18 PM 12:47

December 14, 2012

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PC for PO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *JW* Jodi Winship/Sari Pickeral *SP*
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the
2012 12 Day Pre-Primary Report (Florida)

Attached are two lists of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2012 12 Day Pre-Primary Report (Florida). The first list represents the committees that have paid the civil money penalty and the second list represents the committees that have not paid the civil money penalty. The committees that have not paid have been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.34 and 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have either paid or not paid the civil money penalty.

RAD Recommendation

- (1) Make final determination that the political committees and their treasurers on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

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12/14/2012 2:33 PM

Federal Election Commission
FD Circulation Report Fine Paid
2012 PRE-PRIMARY Election Sensitive 08/02/2012 AUTH (FL)

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2568	OTERO FOR CONGRESS	OTERO, EVELIO	C00504688	TERESA GAFFNEY SUSSMAN	08/08/2012	6	\$22,119	0	10/02/2012	\$210	\$210	11/13/2012	\$210

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Administrative Fine Program - Final)
Determination Recommendation for the)
2012 12 Day Pre-Primary Report (FL):)

OTERO FOR CONGRESS, and GAFFNEY) AF# 2568
SUSSMAN, TERESA as treasurer;)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on December 19, 2012 the Commission took the following actions on the Administrative Fine Program - Final Determination Recommendation for the 2012 12 Day Pre-Primary Report (FL) as recommended in the Reports Analysis Division's Memorandum dated December 14, 2012, on the following committees:

AF#2568 Decided by a vote of 6-0 to: (1) make a final determination that OTERO FOR CONGRESS, and GAFFNEY SUSSMAN, TERESA as treasurer , violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate

Federal Election Commission
Certification for Administrative Fines
December 19, 2012

Page 2

letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub
voted affirmatively for the decision.

Attest:

December 20, 2012
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 2012

Teresa Gaffney Sussman, in official capacity as Treasurer
Otero for Congress
1311 N. Westshore Blvd., Suite 101
Tampa, FL 33607

C00504688
AF#: 2568

Dear Ms. Sussman:

On October 2, 2012, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Otero for Congress and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2012 Pre-Primary Report. By letter dated October 3, 2012, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$210 in accordance with the schedule of penalties at 11 CFR § 111.43.

On November 13, 2012, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on December 19, 2012 that you, in your official capacity as treasurer, and Otero for Congress violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$210 in accordance with 11 CFR § 111.43, and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 CFR § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Sari Pickerall on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

Carole C. Hunter

Caroline C. Hunter
Chair

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PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Otero for Congress

FEC ID#: C00504688


AF#: 2568

PAYMENT DUE DATE: November 11, 2012

PAYMENT AMOUNT DUE: \$210

Page 1 of 1

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OVERSTREET WEALTH MANAGEMENT		2187
PH. 813-287-1159		
1311 N WESTSHORE BLVD #101		
TAMPA, FL 33607		
Pay to the	<u>11/7/2012</u>	Date
Order of <u>Federal Election Commission</u>	<u>\$ 210.00</u>	
<u>Two Hundred & ten & 00/100</u>	Dollars	
 The Bank of Tampa	<u>C00504688</u>	
POST OFFICE BOX ONE	<u>AF#</u>	
TAMPA, FLORIDA 33601-0001	<u>2568</u>	
For <u>Otero for Congress</u>	<u>2568</u>	

[Redacted Signature]



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2568

DATE SCANNED 3-7-13

SCANNER NO. 2

SCAN OPERATOR Jm10

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